

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WILLIAM J. FIGGE)	
Claimant)	
VS.)	
)	
B & W ELECTRICAL CONTRACTORS)	Docket No. 196,134
Respondent)	
AND)	
)	
INSURANCE COMPANY OF NORTH AMERICA)	
Insurance Carrier)	

ORDER

Both claimant and respondent appeal from the May 20, 1996, Award by Special Administrative Law Judge Michael T. Harris. The Appeals Board heard oral argument on November 5, 1996.

APPEARANCES

Claimant appeared by his attorney, Mark W. Works of Topeka, Kansas. Respondent and its insurance carrier appeared by their attorney, Mickey W. Mosier of Salina, Kansas.

RECORD AND STIPULATIONS

The record considered by the Appeals Board and the stipulations of the parties are listed in the Award.

ISSUES

Claimant appealed the issues of injury arising out of and in the course of employment and the nature and extent of claimant's disability. Respondent sought review of the findings and conclusions of the Special Administrative Law Judge concerning notice of accident.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record and considering the arguments and briefs of the parties, the Appeals Board finds that the Award by the Special Administrative Law Judge should be affirmed.

The Appeals Board adopts the findings, conclusions, and orders of the Special Administrative Law Judge as its own as if specifically set forth herein. The Appeals Board finds that the pes cavus condition from which claimant suffers in both feet was a congenital condition which was not caused by his employment with respondent. The medical testimony establishes that the worsening of his condition was due to a personal risk and not a hazard of employment. Almost any type of everyday activity would have a tendency to aggravate claimant's condition. See Martin v. U.S.D. No. 233, 5 Kan. App. 2d 298, 615 P.2d 168 (1980); Boeckman v. Goodyear Tire & Rubber Co., 210 Kan. 733, 504 P.2d 625 (1972).

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Michael T. Harris dated May 20, 1996, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Mark W. Works, Topeka, KS
Mickey W. Mosier, Salina, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director